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BOOK REVIEWS.

G. FORREST BUTTERWORTH, JR., *Editor-in-Charge.*

THE LAW OF ARREST IN CIVIL AND CRIMINAL ACTIONS. By Harvey Cortlandt Voorhees, Second Edition. Boston: Little, Brown & Co. 1915. pp. xliii, 287.

The main purpose of this hand book is to supply police officers with instructions as to the lawful manner of making arrests, in order that the citizen's right of personal liberty may not be wrongfully invaded, on the one hand, and on the other that the official may not subject himself to successful suits for false imprisonment. It seems to be well suited to its purpose. It is small enough to be carried in a pocket for instant reference. One caught reading it would not be suspected of hunting up law. With its flexible covers, its gilt edges and its Elzevier appearance, it would pass for a prayer book or a rice paper edition of a popular novel rather than for a law book.

Moreover, it is concise and clear in style and the legal authorities cited are well selected, if not very numerous. A collection of annotated criminal forms with which the volume closes should prove useful in jurisdictions where these are not prescribed by statute. Several precedents of the return to a writ of habeas corpus and of other proceedings have been inserted in the text, as well as the interesting correspondence between the Federal State Department and Massachusetts officials, relating to the violation of the State automobile law by an attache of the British legation. The forms indicate the accuracy of a statement often made by criminal lawyers, that the pleadings in criminal cases are so simple that even the legal novice should not err therein. It will be observed by the reader that the John Doe of these forms is the well known habitue of common law precedents, and not the hero of John Doe proceedings, who owes his fame in large measure to the legal genius of Mr. Jerome. We have found no reference in the volume to Section 152 of the New York Code of Criminal Procedure, nor to the case of *People ex rel. Friedman v. The Warden, etc.*, 37 Misc. 676, in which District Attorney Jerome instituted John Doe proceedings under its provisions. Indeed, Mr. Voorhees is very conservative. He is content, as a rule, to state common law doctrine, and to give little attention to modern code innovations. For example, in treating of arrest in civil actions, he cites a Massachusetts decision of 1816 for the declaration that "an arrest made after an attachment of property in the same action is altogether void." This rule has been changed by modern statutes, which permit an attachment, an order of arrest and an injunction to issue in the same action against the same defendant. (See Sec. 719 of the New York Code of Civil Procedure.)

Mr. Voorhees' conservatism, and especially his anxiety to so instruct police officials that they shall never arrest persons unless legally authorized to do so, will not meet with universal approbation. In "Courts, Criminals and the Camorra", Arthur Train contends that such conduct on the part of policemen would result in the town's being full of "leather snatchers and strong arm men, while respectable citizens would be afraid to go out o' nights, and liberty would degenerate into license". Our statutes, he points out, say plainly that no one shall be arrested unless a crime has been committed; and, yet, policemen do not hesitate to arrest upon suspicion, taking the chance of showing that

the suspicious character in question has committed some crime. "The struggle to keep the peace and put down crime is a hard one everywhere. It requires a strong arm that cannot show too punctilious a regard for theoretical rights when prompt decisions have to be made and equally prompt action taken. The thieves and gun men have got to be driven out. Suspicious characters have got to be locked up. Somehow or other a record must be kept of professional criminals and persons likely to be active in law-breaking." Hence, in Mr. Train's opinion, the peace officer is often justified socially in making arrests which are not legally authorized: and he ought not to give too much consideration to the right of personal liberty, lest "the native hue of resolution is sicklied o'er with the pale cast of thought."

Francis M. Burdick.

AN ELEMENTARY TREATISE ON THE JURISDICTION AND PROCEDURE OF THE FEDERAL COURTS. By John C. Rose. Baltimore: King Brothers, 1915. pp. xxx, 406.

This book, which originated in a lecture course conducted by the author at the Law School of the University of Maryland, amply fulfills its modest purpose, which is, in Judge Rose's own words, "to aid those who know little or nothing as to the jurisdiction and proceedings of the Federal Courts, and who would like to learn the fundamental rules concerning them." That there are many such persons practicing at the Bar of every state is clear, admission to practice does not predicate a knowledge of Federal jurisdiction, and numerous lawyers are apt to acquire the sort of practice which will not lead them into the Federal Courts at all. But in addition to this small number whose practice lies almost entirely in the Courts of whose bench the author has long been a member, there is a considerable quantity of practitioners whose work requires, from time to time, a knowledge of the subject with which this book deals. To all such persons Judge Rose's work should prove of great service. Its coherency of treatment is especially commendable. The subject is inherently difficult of presentation, and the danger to be avoided in an effort of this sort, is the descent into particularism. In this respect the author has been singularly successful.

Garrard Glenn.

INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION. By A. V. Dicey, K. C., Hon. D. C. L. Eighth Edition. London: Macmillan & Co. 1915. pp. cv, 577.

A new edition of the *Introduction to the Study of the Law of the Constitution*, when put forth by its venerable author as his final revision of a treatise which first appeared in 1885, is notable. Largely because of this element of finality, the method of piece-meal amendment of earlier revisions has been abandoned. Substantially, the body of the book is a reprint of the Seventh Edition (1908); an introduction has been added, however, in which Professor Dicey compares the English constitution as it stood in 1884 and in 1914 and attempts to evaluate certain recent constitutional tendencies. This fact lightens somewhat the task of the reviewer, who may properly confine his attention to the introduction. The importance of Professor Dicey's contribution here is not to be estimated by its physical proportions. The author's genius for compression is well known to his readers;